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Error to Corporation Court of Roanoke.

Action by Lucy Mitchell against William Bannister. Judgment for plaintiff, and defendant brings error. Affirmed.

A. B. Hunt and *A. J. Oliver*, both of Roanoke, for plaintiff in error.

Hoge & Darnall, of Roanoke, for defendant in error.

CLINCHFIELD COAL CORPORATION *v.* COUCH.

Sept. 16, 1920.

[104 S. E. 802.]

1. Infants (§ 58 (2)*)—Can Recover for Personal Injuries without Tendering Return of Amount Received in Settlement.—An infant who has compromised a claim for damages for personal injuries may disregard that settlement and sue for the damages sustained by him without offering to return the amount received in the settlement, but he must give the defendant credit for that amount against the damages which the jury finds he sustained.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 470, et seq.]

2. Appeal and Error (§ 930 (2), 1151 (2)*)—Presumed That Jury Followed Instruction; Judgment Credited with Amount Received by Infant for Release.—In an action for personal injuries brought by an infant after he had executed a release in consideration of a payment to him, error in omitting to charge the jury to credit the defendant with the amount paid for the release does not require reversal of the judgment, but it will be presumed the jury obeyed the court's instruction to disregard the release, and the judgment will be reduced by the amount of the payment and affirmed under the authority of Code 1919, § 6365.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 470, et seq.]

Error to Circuit Court, Russell County.

Action by Carl Couch against the Clinchfield Coal Corporation to recover damages for personal injuries. Judgment for the plaintiff, and defendant brings error. Judgment amended and affirmed.

Burns & Kidd, of Lebanon, and *Morison, Morison & Robertson* and *W. H. Rouse*, all of Bristol, for plaintiff in error.

M. M. Long, of St. Paul, and *Chapman, Peery & Buchanan*, of Tazewell, for defendant in error.

[Note.—For editorial comment see 6 V. L. R., N. S., 537.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.